



U.S. Department
of Transportation

**Federal Highway
Administration**

Virginia Division
(804) 775-3320

March 28, 2003

400 N. 8th Street Rm. 750
P.O. Box 10249
Richmond, Virginia 23240

IN REPLY REFER TO:

Mr. Frank Gee, Chief Engineer of Operations
Virginia Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219

Subject: Application I-81 Section 1216(b) of TEA 21

Dear Mr. Gee:

In response to your March 5, 2003 letter requesting approval for Virginia's I-81 application to be provisionally accepted as one of the three pilot facilities for tolling under Section 1216(b) of the Transportation Equity Act for the 21st Century, FHWA has given a "conditional provisional" acceptance. Attached is a copy of the conditional provisional acceptance memorandum from our Headquarters office.

Under this "conditional provisional" acceptance, FHWA is agreeing to reserve one of the three pilot slots for Virginia's I-81 application and allowing VDOT to proceed to Phase 2 of the process. As you have committed in your letter, FHWA fully expects VDOT to complete all remaining Phase 1 requirements before final approval is given. This conditional provisional acceptance is based on the assumption that a satisfactory timeline for subsequent actions will be developed, the proposal continues to advance in a timely manner, that the "program term" as described in TEA-21 Section 1216(b)(7) will be agreed to between FHWA and VDOT, environmental clearances are appropriately obtained, and an agreement is entered into between VDOT and FHWA under the provisions of TEA-21 Section 1216. This agreement, which must be executed prior to the FHWA's final approval to toll any portion or segment of the candidate facility, must provide for regular audits and that all toll revenues will be used in accordance with the requirements set forth in Section 1216(b)(5) of TEA-21.

If you have questions, please contact Mr. Vince Mammano at (804) 775-3355.

Sincerely,

Roberto Fonseca-Martinez
Division Administrator

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U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: ACTION: Virginia – Interstate Pilot Program (IPP)
Virginia TEA-21 Section 1216(b) Candidate
(Your March 20 Memorandum)

Date: March 27, 2003

From: Dwight A. Horne
Director, Office of Program

[Signature], for

Reply to
Attn. of: HIPA-10

To: Mr. Roberto Fonseca-Martinez
Division Administrator
Richmond, Virginia

Chief Engineer C. Frank Gee's March 5, 2003, letter requests approval for Virginia's I-81 application to be provisionally accepted as one of the three pilot facilities for tolling under Section 1216(b) of the Transportation Equity Act for the 21st Century. The material included in Mr. Gee's letter provides information requested in Mr. Rentz's April 6, 1999 memorandum for "provisional" acceptance of the candidate project.

As Mr. Gee recognizes in his letter, Virginia's application, at this time, does not contain all of the information required for a full provisional acceptance under Phase I of the application process as specified by our published guidance in the Federal Register, 64 Fed. Reg. 6734 (1999). However, as indicated in that guidance, the purpose for requiring a Phase I approval was merely to establish a process for evaluating and choosing three of multiple different applications for participation in the 1216(b) pilot program. The three applications chosen under Phase I would be given a "provisional acceptance" and receive our approval to move forward with the NEPA process for the project. However, because there is no competition for participation in this program, we are approving Virginia's application and giving them a "conditional provisional" acceptance. Under this "conditional provisional" acceptance, we are agreeing to reserve one of the three pilot slots for Virginia's I-81 application and allow Virginia to proceed to Phase 2 of the process. As Mr. Gee has committed to do in his letter, we fully expect for Virginia to complete all remaining Phase 1 requirements before we give our final approval to Virginia's participation in this program. Therefore, the division office may proceed with negotiation with the State to further develop this project.

Although we are giving Virginia a "conditional provisional" acceptance and reserving for them one of the three pilot slots, we fully expect that all required information, including the completion of the NEPA process, be developed and submitted to us for a final approval before tolling any portion or segment of the candidate facility. Upon environmental clearance (which would include evaluation

of the impacts of tolling), the facility segments will become eligible to be considered for final approval under the pilot program, provided all other provisions have been satisfactorily addressed. Additional tolling segments or collection points may be added once environmental clearances are obtained.

This conditional provisional acceptance of I-81 as one of the pilot facilities is based on the assumption that a satisfactory timeline for subsequent actions will be developed, the proposal continues to advance in a timely manner, that the "program term" as described in TEA-21 Section 1216(b)(7) will be agreed to between FHWA and VDOT, environmental clearances are appropriately obtained, and an agreement is entered into between VDOT and FHWA under the provisions of TEA-21 Section 1216. This agreement, which must be executed prior to the FHWA's final approval to toll any portion or segment of the candidate facility, must provide for regular audits and that any toll revenues received from operation of the facility will be used in accordance with the requirements set forth in Section 1216(b)(5) of TEA-21 prior to tolling. This agreement is to be coordinated with HIPA-10 and HCC-30.

Additionally, Section 1216(b)(6) of TEA-21 also requires a limitation on the use of Interstate maintenance (IM) funds during the term of the pilot program, funds apportioned for IM under section 104(b)(4) of title 23, United States Code, may not be used on any segment being tolled. Once other segments are approved, then the IM restriction would attach to those segments. The IM restriction would apply to general lanes as well as any special purpose lanes, while tolls are being collected under the pilot program. Please feel free to contact Jack Wasley, of my staff at (202) 366-4658, should you have any questions or concerns about the approval contained in this memorandum.

FHWA:HIPA:JWasley:64658:jw:01/24/03
Office File HIPA: W:\Federal_aid_reader_files\03\tlva3016.doc

cc:

HIF (King Gee) HIPA (Beidel) HIPA (Wasley) HIPA (West)
HIPA (Horne) HABF (Inman) HCC (Michael Harkins)
HCC (Aikens) HIPA (Leonin) HIPA (Robertson/Reader)
HIPA-20 (Schlicht) HIPA-30 (Sorel) HIPA-30 (Nishimoto)
FHEP (Fred Skaer) FHEP (Lamar Smith) HPTS (DeCorla-Souza)
HAD-VA (John Grounds) HAD-VA (Vince Mammano)